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HANLEY SWEENEY
CLERK OF DISTRICT COURT

2010 AUG 20 P 1:53

FILED
BY **J. STEAB**
DEPUTY

MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY

RONALD MOSCHETTA,

Petitioner,

vs.

MONICA J. LINDEEN, Commissioner of
Securities and Insurance, Montana State Auditor,

Respondent

CAUSE NO.: CDV-2010-685

MOTION TO DISMISS

The Commissioner of Securities and Insurance, Montana State Auditor (CSI), by and through her legal counsel, Roberta Cross Guns, respectfully moves this Court to dismiss the above-captioned matter for failure to state a claim upon which relief can be granted, pursuant to Mont.R.Civ.P. 12(b), because Petitioner Ronald Moschetta (Moschetta) has failed to exhaust his administrative remedies by failing to defend in the case, by failing to request a hearing on the matter, and by failing to seek to set aside the default entry or the final agency decision.

WHEREFORE, the Commissioner requests the court grant her motion and dismiss this case because Petitioner has failed to state a claim upon which relief can be granted.

DATED this 20th day of August, 2010.


ROBERTA CROSS GUNS
Special Assistant Attorney General

CERTIFICATE OF SERVICE

This is to certify that on this 20th day of August, 2010, a copy of the foregoing was served upon the following by depositing a true and correct copy thereof in the United State mail, postage prepaid, addressed to:

Brian Gallik
J. Devlan Geddes
Goetz Law Firm
PO Box 6580
Bozeman, MT 59771-6580



State Auditor's Office